

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration, and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**ASSIGNED COMMISSIONER'S RULING AND
NOTICE OF ORAL ARGUMENT ON THE FUTURE ADMINISTRATIVE
STRUCTURE FOR ENERGY EFFICIENCY**

After many weeks of deliberation, I have formulated a vision for the future of energy efficiency administration in collaboration with Commissioner Art Rosenfeld of the California Energy Commission. The document posted at www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/index.htm reflects the results of our collaborative effort to date.¹ In developing this vision, we have weighed the pros and cons of the various options presented by the parties and have carefully considered the policy and legal concerns reflected in parties' comments, as well as those raised by our own technical and legal staff. The result is an administrative structure that we believe is the best approach for meeting the goals contained in California's Energy Action Plan.

However, before I issue a draft decision on this matter for comment under Pub. Util. Code § 311(g), I will hold an oral argument on the current version of

¹ It is posted on that page as "Energy Efficiency Draft Decision for Discussion Only."

the draft.² I intend to have as many of my colleagues as possible in attendance for the oral argument, so they will have the opportunity to hear your comments and express their own views on the issue of administrative structure. I believe that this interaction will greatly enhance the Commission's decision-making process that will follow.

Accordingly, **NOTICE IS HEREBY GIVEN** that an oral argument on the current version of the draft decision, which is posted on the Commission's website at www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/index.htm, is scheduled for September 30, 2004 from 10:00 a.m. to 1:00 p.m. in the Commission Courtroom at 505 Van Ness Avenue, San Francisco, California.

Administrative Law Judge (ALJ) Meg Gottstein will finalize the agenda and coordinate the presentations for the oral argument. The oral argument will be generally structured as follows: First, legal counsel of the utilities and of other interested parties should address legal implementation issues associated with energy efficiency administration, as presented in the draft decision. Those issues include the following:

- 1) In 1998, the Commission attempted to authorize the California Board for Energy Efficiency to oversee energy efficiency activities. The effort failed because of:
 - a) civil service issues raised by the California State Employees Association;

² Today's distribution of the current version of the draft decision is *not* an issuance of a draft decision under § 311(g), and we are not soliciting comments as provided for under that code section. That process will follow at some point, after the oral argument.

- b) concerns raised by the Attorney General's office and the Department of Finance related to the transfer of ratepayer funds to a party other than the utilities; and
 - c. the Attorney General's concern that the Commission lacked authority to create advisory bodies in the absence of authorizing legislation, such as Pub. Util. Code §§ 270 and 381.2. *What is the impact of this past history on the various proposals for administering energy efficiency? Do you agree with the manner in which the draft decision addresses these legal issues—and if not, why not?*
- 2) Pub. Util. Code § 381.1(a), requires that the Commission establish procedures by which anyone, including Community Choice Aggregators, can apply to become administrators of energy efficiency programs established pursuant to § 381. *What is the impact of § 381.1(a) on the various proposals for administering Energy Efficiency? Do you agree with the manner in which the draft decision addresses this issue—and if not, why not?*

Following the discussion of legal issues, we will turn to the policy issues raised by the draft decision. We solicit oral argument from one representative of each coalition that presented an administrative structure proposal for our consideration, and other interested parties as time permits. There will be question-answer and discussion time factored into the final schedule.

A court reporter will be present to transcribe the oral argument. Parties desiring expedited or daily transcripts should advise the Chief Hearing Reporter by telephone at (415) 703-2288, no later than three days prior to the scheduled argument. If you have questions about the hearing date, time or place, call the Calendar Clerk at (415) 703-1203.

The utilities and interested parties should contact ALJ Gottstein by email at meg@cpuc.ca.gov *no later than September 3, 2004* if they wish to participate in the oral argument. In doing so, they should indicate: (1) who will be the spokesperson (name and title), (2) which coalition they will be representing, if

applicable,³ (3) whether they wish to address legal issues (via counsel), policy issues, or both, (4) the amount of time they wish to be allocated for legal and/or policy oral argument(s), and (5) an email address and phone number where they can be reached. *Only those parties that submitted written comments in this phase of the proceeding will be considered for participation in this oral argument.* Moreover, we may not be able to accommodate all requests due to time constraints.

ALJ Gottstein will make the final decision on participation, time allotments and other logistical issues in developing the agenda, and post the final agenda on the Commission website.

IT IS RULED that:

1. An oral argument on the current version of the draft decision on energy efficiency administrative structure will be held on September 30, 2004, from 10:00 a.m. to 1:00 p.m. in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California. The current version of the draft decision is posted as “Energy Efficiency Draft Decision for Discussion Only” at:

www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/index.htm.

2. Distribution of the current version of the draft decision does not represent the issuance of a draft decision under Pub. Util. Code § 311(g), and does not solicit written comments, as provided for under that code section.

³ See page 16 of the draft decision for the listing of the four major coalitions presenting proposals for administrative structure in this proceeding. For each coalition, there should be only one spokesperson at the oral argument on legal issues, and one on policy issues. Before contacting the ALJ, each coalition should decide among its members who should be that spokesperson.

3. Parties interested in participating in the oral argument should contact Administrative Law Judge Meg Gottstein by electronic mail at meg@cpuc.ca.gov no later than September 3, 2004, as described in this ruling.

Dated August 18, 2004, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Assigned Commissioner's Ruling and Notice of Oral Argument on the Future Administrative Structure for Energy Efficiency on all parties of record in this proceeding or their attorneys of record.

Dated August 18, 2004, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.